

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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RAFAEL BLASINI,

Plaintiff,

- against -

**THE CITY OF NEW YORK,
DETECTIVE JEREMIAH
BREEN, UC 0006, UC 0003, and JOHN
DOE POLICE OFFICERS AND/OR
DETECTIVES #s 1-10,**

Defendants.
----- X

ORDER

11 Civ. 3022 (SAS)

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>4/18/12</u>

SHIRA A. SCHEINDLIN, U.S.D.J.:

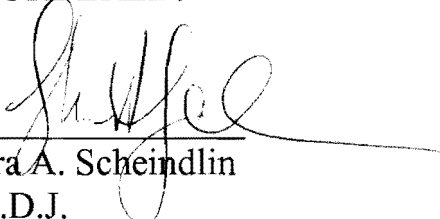
According to Rafael Blasini's Amended Complaint, defendants violated his civil rights by maliciously providing false testimony to a grand jury, obtaining an indictment against him, and then arresting him on that indictment. On April 2, 2012, the United States Supreme Court issued its decision in *Rehberg v. Paulk*, No. 10-788, holding that civil rights actions cannot be brought against witnesses for their testimony in front of a grand jury. The Court held:

[W]e conclude that grand jury witnesses should enjoy the same immunity as witnesses at trial. This means that a grand jury witness has absolute immunity from any §1983 claim based on the witness' testimony. In addition, as the Court of Appeals held, this

rule may not be circumvented by claiming that a grand jury witness conspired to present false testimony or by using evidence of the witness' testimony to support any other §1983 claim concerning the initiation or maintenance of a prosecution.

Because Blasini's indictment constitutes prima facie evidence of probable cause to arrest him and because the absolute immunity provided to defendants by *Rehberg* prevents Blasini from rebutting the presumption of probable cause by arguing that defendants made misrepresentations to the grand jury, Blasini's section 1983 claim cannot survive. It is therefore dismissed. The Court declines supplemental jurisdiction over Blasini's state law claims. The Clerk of the Court is ordered to close this case.

SO ORDERED:



Shira A. Scheindlin
U.S.D.J.

Dated: New York, New York
April 17, 2012

- Appearances -

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